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STATUTORY INSTRUMENTS

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**1989 No. 76**

**FIRE PRECAUTIONS**

**The Fire Precautions (Factories, Offices,  
Shops and Railway Premises) Order 1989**

<i>Made</i>	- - - -	<i>20th January 1989</i>
<i>Laid before Parliament</i>		<i>27th January 1989</i>
<i>Coming into force</i>	- -	<i>1st April 1989</i>

In exercise of the powers conferred on me by section 1 of the Fire Precautions Act 1971(1), I hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Fire Precautions (Factories, Offices, Shops and Railway Premises) Order 1989 and shall come into force on 1st April 1989.

**Interpretation**

2.—(1) In this Order—

“the 1971 Act” means the Fire Precautions Act 1971;

“basement” means a floor (however described) immediately below the ground floor;

“factory premises” means premises constituting, or forming part of, a factory within the meaning of the Factories Act 1961(2) and premises to which sections 123(1) and 124 of that Act (application to electrical stations and institutions) apply;

“first floor” means the floor above the ground floor;

“office premises”, “railway premises” and “shop premises” mean (respectively, and subject to paragraphs (2) and (3) below) office premises, railway premises and shop premises within the meaning of the Offices, Shops and Railway Premises Act 1963(3), and premises deemed to be such premises for the purposes of that Act, other than premises consisting of a covered market place in which shop premises are aggregated.

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(1) 1971 c. 40; section 1 was amended by the Health and Safety at Work etc. Act 1974 (c. 37), section 78(2), and by the Fire Safety and Safety of Places of Sport Act 1987 (c. 27), section 1(2).  
(2) 1961 c. 34.  
(3) 1963 c. 41.

(2) For the purpose of the definition in paragraph (1) above of “railway premises”, any reference in section 1(4) of the Offices, Shops and Railway Premises Act 1963 (which defines “railway premises” in that Act) to a building shall be construed as a reference to a building within the meaning of the 1971 Act, and accordingly the definition of “building” in section 90(1) of the Offices, Shops and Railway Premises Act 1963 shall not have effect for that purpose.

(3) In the definition in paragraph (1) above of “shop premises” the reference to a covered market place shall be construed as limited to such a place where a market is held by virtue of a grant from the Crown or of prescription or under statutory authority.

### **Revocation of designation order**

3. The Fire Precautions (Factories, Offices, Shops and Railway Premises) Order 1976(4) is hereby revoked.

### **Designation of uses of factory, office, shop and railway premises**

4. Subject to article 7 below, the following uses of premises are hereby designated for the purposes of section 1 of the 1971 Act (which requires fire certificates for premises put to designated uses), that is to say—

- (a) use as factory premises;
- (b) use as office premises;
- (c) use as shop premises; and
- (d) use as railway premises,

being (in each case) a use of premises in which persons are employed to work.

### **Premises exempt from requirement for fire certificate**

5.—(1) Notwithstanding the provisions of article 4 above, a fire certificate shall not by virtue of section 1 of the 1971 Act be required for any factory premises, office premises, shop premises or railway premises in which—

- (a) not more than twenty persons are at work at any one time; and
- (b) not more than ten persons are at work at any one time elsewhere than on the ground floor of the building constituting or comprising the premises,

unless one or more of the conditions specified in paragraph (2) below applies to the premises.

(2) The conditions referred to in paragraph (1) above are—

- (a) that the premises are in a building containing two or more sets of premises which are put to any of the uses designated by article 4 above and the aggregate of the persons at work at any one time in both or (as the case may be) all those sets of premises exceeds twenty;
- (b) that the premises are in a building containing two or more sets of premises which are put to any of such uses and in both or (as the case may be) all those sets of premises the aggregate of the persons at work at any one time elsewhere than on the ground floor of the building exceeds ten;
- (c) that, in the case of factory premises, explosive or highly flammable materials (other than materials of such a kind and in such a quantity that the fire authority have determined that they do not constitute a serious additional risk to persons in the premises in case of fire) are stored or used in or under the premises.

(3) Any reference in this article to persons at work is a reference to any of the following persons:

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(4) S.I. 1976/2009.

- (a) an individual who works under a contract of employment or apprenticeship;
- (b) an individual who works for gain or reward otherwise than under a contract of employment or apprenticeship, whether or not he employs other persons;
- (c) a person receiving training provided pursuant to arrangements made (whether before or after the coming into force of section 25 of the Employment Act 1988<sup>(5)</sup>) under section 2 of the Employment and Training Act 1973<sup>(6)</sup>.

### **Premises qualifying for exemption by fire authorities from requirement for fire certificate**

6.—(1) As respects the uses of premises designated by article 4 above, the premises described in paragraphs (2) and (3) below in relation to such a use qualify for exemption by a fire authority under section 5A of the 1971 Act<sup>(7)</sup> (powers for fire authority to grant exemption in particular cases) from the requirement for a fire certificate in respect of premises which are put to that use.

(2) In the case of a use of premises as factory premises, office premises or railway premises, the premises referred to in paragraph (1) above are any premises consisting of or comprised in—

- (a) the ground floor of a building; or
- (b) the ground floor and basement of a building; or
- (c) the ground floor and first floor of a building; or
- (d) the ground floor, first floor and basement of a building in which the basement is separated from the ground floor by fire-resisting construction.

(3) In the case of a use of premises as shop premises, the premises referred to in paragraph (1) above are any premises consisting of or comprised in—

- (a) the ground floor of a building; or
- (b) the ground floor and basement of a building in which the basement is separated from the ground floor by fire-resisting construction.

(4) For the purposes of paragraphs (2)(d) and (3)(b) above, construction shall be treated as fire-resisting if, and only if, it is of such a nature as to be capable of providing resistance to fire for a period of not less than thirty minutes.

### **Saving for premises to which regulations apply**

7. Nothing in this Order shall have effect in relation to—

- (a) any railway premises to which regulations under section 12 of the 1971 Act (regulations about fire precautions) for the time being apply; or
- (b) any premises of a description for the time being specified in any regulations made under the Health and Safety at Work etc. Act 1974<sup>(8)</sup> which provide for the issue of fire certificates by the Health and Safety Executive.

Home Office  
20th January 1989

*Douglas Hurd*  
One of Her Majesty's Principal Secretaries of  
State

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<sup>(5)</sup> 1988 c. 19.

<sup>(6)</sup> 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988.

<sup>(7)</sup> Section 5A of the Act was inserted by section 1(4) of the Fire Safety and Safety of Places of Sport Act 1987.

<sup>(8)</sup> 1974 c. 37.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order supersedes the Fire Precautions (Factories, Offices, Shops and Railway Premises) Order 1976, which is revoked by article 3. It makes similar provision for the designation of those places of work in respect of which a fire certificate is required by section 1 of the Fire Precautions Act 1971 and for the exemption of certain premises from the requirement for a fire certificate, and it makes new provision for the purpose of enabling fire authorities to exempt premises from that requirement.

Article 4 of the Order designates generally the use of factory, office, shop and railway premises (as defined in article 2) in which persons are employed to work. Article 5 exempts from certification those premises in which the persons working there at any one time, including employees, self-employed persons and trainees, do not exceed the numbers specified in that article. Article 6 specifies the categories of premises which qualify for exemption by a fire authority from certification. It describes the premises by reference mainly to their situation within a building, either on the ground floor of the building or on the ground floor and the floor below or the floor above it, and in some cases by reference to the separation of one floor from another by fire-resisting construction. Under section 5A of the 1971 Act a fire authority may grant exemptions in respect of particular premises falling within the descriptions specified.

By virtue of article 7 the Order has no application to any railway premises to which regulations under the 1971 Act apply or to any premises covered by regulations made under the Health and Safety at Work etc. Act 1974 which provide for the issue of fire certificates by the Health and Safety Executive (currently, the Fire Certificates (Special Premises) Regulations 1976 (S.I.1976/2003)).